

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.15/1994/7
19 January 1994

ORIGINAL: ENGLISH

COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE

Third session

Vienna, 26 April-6 May 1994

Item 6 of the provisional agenda*

UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME
PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary-General

Summary

The present report is an updated version of the previous report of the Secretary-General on the subject (E/CN.15/1993/6), which was submitted to the Commission on Crime Prevention and Criminal Justice at its second session. It provides a description of achievements and problems in the application of United Nations standards and norms in crime prevention and criminal justice. It focuses on ways and means of promoting their use and dissemination and of strengthening existing review procedures. Special attention is accorded to recent mandates of the Council in this area; for example, in its resolution 1993/34, section III, of 27 July 1993, the Council called upon the Commission, at its third session, to pay due attention to the results of the World Conference on Human Rights, held at Vienna in June 1993.

*E/CN.15/1994/1.

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INTRODUCTION

1. The present report gives an overview of the application of existing United Nations standards and norms in the field of crime prevention and criminal justice, pursuant to Economic and Social Council resolutions 1992/22, section VII, of 30 July 1992 and 1993/34, section III, of 27 July 1993. The report, which covers the period from 15 December 1992 to 31 January 1993, updates information provided in the previous report of the Secretary-General on the subject (E/CN.15/1993/6).

2. On the recommendation of the Commission on Crime Prevention and Criminal Justice at its second session, the Council adopted resolution 1993/34. In section III of that resolution, the Council requested the Commission to establish, at its third session, an open-ended in-session working group in order to discuss, *inter alia*, the following issues: the role of the United Nations in promoting the use and application of standards, norms and guidelines in crime prevention and criminal justice; the evaluation of the reporting system and other sources of information; and measures to improve the dissemination of information, education and technical assistance to enhance their use and application. The present report provides background information for that working group.

3. Also in its resolution 1993/34, section III, the Council requested the Secretary-General:

(a) To assist Member States, at their request, in implementing existing United Nations standards in crime prevention and criminal justice;

(b) To strengthen and coordinate activities in this field, including advisory services, training programmes and fellowships;

(c) To commence without delay a process of information-gathering, to be undertaken by means of surveys, such as reporting systems, and contributions from other sources, initially paying attention to the following United Nations standards, norms and guidelines: the Standard Minimum Rules for the Treatment of Prisoners;¹ the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex, of 17 December 1979), together with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;² the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex, of 29 November 1985); and the Basic Principles on the Independence of the Judiciary.³ The surveys should be conducted over a two-year period in order to enable Member States to have sufficient time to provide replies. The results of the first surveys should be considered at the earliest possible session of the Commission.

I. USE AND APPLICATION OF UNITED NATIONS STANDARDS AND NORMS IN CRIME PREVENTION AND CRIMINAL JUSTICE

A. Implementation of existing United Nations standards and norms in crime prevention and criminal justice

4. There is a close relationship between implementing existing United Nations standards and norms in crime prevention and criminal justice and strengthening and coordinating activities in that field. Pursuant to the requests of the Council referred to in subparagraphs 3 (a) and (b) above, the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna has undertaken a number of activities such as the development of training programmes and the preparation of handbooks and manuals and advisory services, in cooperation with other United Nations entities with a human rights dimension in their programmes and with interested non-governmental organizations.

1. Training programmes

5. Efficient and fair criminal justice systems are essential to sustainable social and economic development. Therefore, United Nations standards and norms in crime prevention and criminal justice should be an integral part of technical cooperation projects. The provision of technical assistance and personnel training, including the preparation and use of handbooks and manuals, is the best means of effectively enhancing the use and application of those standards and norms.

6. The Crime Prevention and Criminal Justice Branch has been actively involved in the organization and coordination of technical cooperation projects in crime prevention and criminal justice, focusing on the promotion of the use and application of United Nations standards and norms in that field.

7. A representative of the Crime Prevention and Criminal Justice Branch took part in a training course on criminal justice and human rights in Namibia, organized by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law; the training course was held at Otjiwarongo, Namibia, from 29 March to 2 April 1993. The participants in the training course included high-ranking Namibian officials from the police, the military, the immigration office, the Ministry of Home Affairs and the Ministry of Justice. Extensive information was provided on United Nations standards and norms in crime prevention and criminal justice, in particular, on the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the Basic Principles on the Independence of the Judiciary. Relevant Namibian legislation and the criminal justice situation in practice were taken into account.

8. A representative of the Branch was actively involved in the second training course on criminal justice and human rights in Namibia, held at Etosha Park, Namibia, from 10 to 22 September 1993. That training course was also organized by the Raoul Wallenberg Institute. To ensure follow-up on the first training course, many of the persons who had participated in that course were invited to attend the second one. There was a more advanced level of discussion on various topics, including case-studies on human rights and law enforcement, the role of non-governmental organizations, the dissemination of United Nations instruments, the treatment of prisoners, immigration law and the Namibian legal system.

9. The Branch was also involved in three workshops or training courses organized by the Raoul Wallenberg Institute for criminal justice practitioners in the African region. A training course on prison administration in the African context and United Nations standards and norms in crime prevention and criminal justice was held at Kampala from 16 to 18 September 1993. Senior prison administrators in Uganda participated in discussions that dealt with the use and application of such United Nations standards and norms in the African context.

10. A training course on law enforcement and United Nations standards and norms in crime prevention and criminal justice, organized by the Raoul Wallenberg Institute in cooperation with the Branch, was held at Pretoria, South Africa, from 20 to 22 September 1993. It was attended by a wide variety of individuals, including South African law enforcement officials. Considerable interest was expressed in making information about United Nations standards in crime prevention and criminal justice more widely available in South Africa.

11. A workshop on human rights and humanitarian law, organized by the Raoul Wallenberg Institute, the International Committee of the Red Cross and the International Foundation of the Red Cross, was held at Harare from 29 November to 3 December 1993. The workshop was attended by some 60 representatives from ministries, law enforcement and prison officials, immigration officers and military

staff. It provided an opportunity to, inter alia, discuss the practical application of United Nations standards and norms in crime prevention and criminal justice in the daily work of the participants.

12. The Branch took part in a training course for instructors of the police academies of Bucharest, held at Bucharest from 1 to 5 March 1993. The training course was organized in cooperation with the Centre for Human Rights of the Secretariat and the Romanian Institute for Human Rights as follow-up to a similar training course held in that city in October 1992. Attention was paid to the legal status and rights of the accused during arrest and pre-trial detention, protection and redress for victims, non-discrimination and community policy. Reforms to enable the Romanian criminal justice system to overcome difficulties facing it were also discussed.

13. A representative of the Branch was actively involved in a conference on improving international standards in the Romanian penal system, held at Bucharest from 23 to 25 November 1993. The conference, which was organized by Penal Reform International and the Romanian Independent Society for Human Rights, served as a training programme for members of the judiciary and officials in the penal system in Romania.

14. A representative of the Branch also took part in a training course on human rights in the administration of justice, for judges, lawyers, and prosecutors in Romania, held at Bucharest from 30 November to 3 December 1993. The training course was organized by the Government of Romania, the Centre for Human Rights of the Secretariat and the Romanian Institute for Human Rights. Special attention was paid to the role of judges, lawyers and prosecutors within the framework of the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers,⁴ and the Guidelines on the Role of Prosecutors.⁵ Due attention was also given to law enforcement and criminal justice conditions in the host country.

15. In view of the fact that Romania has recently become a member of the Council of Europe, it is especially important not only to strengthen the democratization and to enhance the rule of law and the observance of and respect for human rights in the country, but also to help the Government to control the rising criminality, resulting from, among other things, organized crime and drug trafficking (Romania is used as a transit country). Such efforts are being undertaken in close cooperation with the Government, the Centre for Human Rights of the Secretariat, the United Nations Development Programme (UNDP) Resident Representative in Romania, the Council of Europe and interested non-governmental organizations.

2. Advisory services

16. United Nations standards and norms in crime prevention and criminal justice provide a basis for advisory services rendered to Member States, especially developing countries and countries in transition, that are reforming their criminal justice systems. The Interregional Adviser for Crime Prevention and Criminal Justice and the regional adviser assigned to the Economic and Social Commission for Asia and the Pacific (ESCAP) are responsible for providing direct advisory services to Governments at their request. Their main task is to translate United Nations instruments into specific actions that take into account the economic, social, cultural and political circumstances of the country concerned. In this connection, expanding the number of the interregional and regional advisers would be one of the most effective means of promoting the use and application of United Nations standards and norms in crime prevention and criminal justice.

17. From December 1992 to January 1993, the Interregional Adviser undertook missions to Jordan, Mongolia, Namibia, Nicaragua and Swaziland. All those missions were related to the development of criminal justice systems. In addition to the discussion of United Nations instruments, such as the

Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/111, annex, of 14 December 1990), the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Basic Principles on the Independence of the Judiciary, and the Guidelines on the Role of Prosecutors, specific suggestions were made on how those standards could be reflected in domestic legislation and put into practice in those countries.

18. The ESCAP regional adviser, whose post is funded by contributions from the Government of Japan, undertakes advisory missions to countries in Asia and the Pacific. Due to financial restraints, however, the number of his missions has been limited. Although official requests had been received, through UNDP, from eight developing countries in the region for advisory services, the regional adviser was only able to undertake missions to Cambodia, Hong Kong, Malaysia and the Philippines.

19. While the necessity for the appointment of additional regional advisers has frequently been emphasized, the only post that has been created so far is that of the regional adviser in the ESCAP region. More regional advisers are required in order to promote the effective use and application of United Nations standards and norms in crime prevention and criminal justice and, in particular, to ensure realistic approaches that take into consideration the social, cultural and economic conditions of the regions concerned. The regional advisers will need to work in close cooperation with the Crime Prevention and Criminal Justice Branch.

3. Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice and other publications

20. The Council, in its resolution 1993/34, section III, requested the Secretary-General to ensure the widest possible dissemination of the texts of the standards contained in the Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice,⁶ which had been published in English only. It called for a reprint of the Compendium in English and its publication in the other five official languages of the United Nations. It cannot be overemphasized that the United Nations crime prevention and criminal justice programme must utilize the Compendium not only in its advisory services, but also in training seminars and workshops. The United Nations instruments in crime prevention and criminal justice cannot be respected unless they are made available to all practitioners in the field, so that they may use them on a day-to-day basis.

21. A contribution by the Government of the United Kingdom of Great Britain and Northern Ireland made it possible for the Compendium to be reprinted in English. That was done primarily to make copies of it available at the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993. All the remaining copies of it in English were disseminated at training courses. Thus, there is an urgent need to reprint the Compendium in English in order to ensure that the instruments contained in it are available to both policy makers and practitioners in the field.

22. The Secretary-General had the Compendium translated into other official languages of the United Nations. The Governments of China, France, the Russian Federation and Spain have committed themselves to the funding of its publication in their national languages. The Government of Saudi Arabia is exploring the possibility of funding the publication of the Compendium in Arabic.

23. A United Nations composite manual on juvenile justice standards, policy and implementation is being prepared by the Branch. The manual will assist Member States in developing and evaluating programmes and formulating policy on the basis of United Nations standards in juvenile justice. It will provide a guide for professionals in the field of juvenile justice. It is hoped that the manual will be widely used by juvenile justice professionals, regardless of their legal system, in scientific research,

cross-sectoral training, interdisciplinary programme development and evaluation and policy formulation, with a view towards improving juvenile justice administration and service delivery mechanisms. A draft of the manual was considered by the standing advisory group of eminent experts at a meeting organized by the Arab Security Studies and Training Centre and held at its headquarters at Riyadh from 28 April to 4 May 1994; the manual is to be finalized at an expert meeting to be held at Reno, United States of America, in May 1994. It will be published by the Centre in Arabic and in English by the end of 1994.

4. Cooperation and coordination of activities

(a) Other United Nations entities

(i) International Year of the Family

24. The International Year of the Family, which is being observed in 1994, offers an opportunity to highlight further the important role of the family in crime prevention and criminal justice and to promote action on the various related aspects. This role is specified, *inter alia*, in the three standards on juvenile justice: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), contained in General Assembly resolution 40/33, annex, of 29 November 1985; the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), contained in General Assembly resolution 45/112, annex, of 14 December 1990; and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, contained in General Assembly resolution 45/113, annex, of 14 December 1990.

25. The Riyadh Guidelines outline the important contribution that a healthy and stable family, as an agent for primary socialization and social control and a role model, can make in rearing children to be productive, integral members of society, free from crime, victimization and conflict with the law. The Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, which deal with the treatment and handling of young persons who have already come into conflict with the law, highlight the importance of families to young persons in detention.

26. Families have a pivotal role to play in the treatment and rehabilitation of members who have been convicted of crimes. The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), contained in General Assembly resolution 45/110, annex, of 14 December 1990, place special emphasis on the role of the family in this area, because non-custodial measures are most effective where there are coordinated efforts, with adequate support, by the family of the offender, the correctional system and social welfare agencies.

27. On the occasion of the International Year of the Family, the role of the family in United Nations standards and norms in crime prevention and criminal justice will be emphasized. For this purpose, a report entitled Family and Crime⁷ was prepared by the Crime Prevention and Criminal Justice Branch and published by the secretariat for the International Year of the Family.

28. With a view to promoting activities of the United Nations crime prevention and criminal justice programme related to the International Year of the Family, representatives of the Branch will participate in the Fourth Ad Hoc Inter-Agency Meeting on the International Year of the Family, to be held at Vienna from 29 to 31 March 1994.

29. Five regional preparatory meetings for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as well as the third session of the Commission on Crime Prevention and Criminal Justice, are being held in the course of the International Year of the Family. The attention of the Commission is drawn to General Assembly resolution 44/82 of 8 December 1989,

in which the Assembly decided that the major activities for the observance of the International Year of the Family should be concentrated at the local, regional and national levels and should be assisted by the United Nations and its system of organizations.

(ii) Human rights

30. In its resolution 1993/34, the Economic and Social Council commended the World Conference on Human Rights for bearing in mind the existence of important United Nations standards and norms in the administration of justice. Also in that resolution, the Council called upon the Commission on Crime Prevention and Criminal Justice, at its third session, to pay due attention to the results of the World Conference as far as crime prevention and criminal justice issues were concerned.

31. The World Conference, which was attended by representatives of the Crime Prevention and Criminal Justice Branch, had before it a document containing, among other things, a review and assessment of the progress made in the field of human rights relevant to crime prevention and criminal justice (A/CONF.157/PC/61/Add.5). In addition, a description of the work of the United Nations in that area was made available to participants at the World Conference in the form of the Compendium.

32. In the Vienna Declaration and Programme of Action adopted by the World Conference, it is stated (A/CONF.157/23, sect. I, para. 4):

"The promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations in accordance with its purposes and principles, in particular the purpose of international cooperation. In the framework of these purposes and principles, the promotion and protection of all human rights is a legitimate concern of the international community. The organs and specialized agencies related to human rights should therefore further enhance the coordination of their activities based on the consistent and objective application of international human rights instruments."

33. In the Vienna Declaration and Programme of Action, the following is also stated (A/CONF.157/23, sect. I, para. 27):

"Every State should provide an effective framework of remedies to redress human rights grievances or violations. The administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession in full conformity with applicable standards contained in international human rights instruments, are essential to the full and non-discriminatory realization of human rights and indispensable to the processes of democracy and sustainable development. In this context, institutions concerned with the administration of justice should be properly funded, and an increased level of both technical and financial assistance should be provided by the international community."

34. The World Conference recommended increased coordination in support of human rights and fundamental freedoms within the United Nations system. To that end, it urged all United Nations organs, bodies and the specialized agencies whose activities dealt with human rights to cooperate in order to strengthen, rationalize and streamline their activities, taking into account the need to avoid duplication (A/CONF.157/23, sect. II, para. 1).

35. The General Assembly, in its resolution 48/103 of 20 December 1993, on crime prevention and criminal justice, requested the Secretary-General to take all necessary measures to assist the Commission in performing its functions as the principal policy-making body in the field of crime prevention and

criminal justice and to ensure the proper coordination of all relevant activities in the field, in particular with the Commission on Human Rights and the Commission on Narcotic Drugs.

36. After having considered the report of the Secretary-General on human rights in the administration of justice (A/48/575), the Assembly, in its resolution 48/137 of 20 December 1993, on human rights in the administration of justice, invited the Commission on Crime Prevention and Criminal Justice to pay particular attention to questions relating to the administration of justice, with special emphasis on the effective implementation of norms and standards.

37. The Economic and Social Council, in its resolution 1993/48 of 28 July 1993, requested the Secretary-General to submit a report to the Council, at its substantive session of 1994, on the steps taken to implement the recommendations contained in Council resolution 1983/30 of 26 May 1983 by those Member States, United Nations organizations and other intergovernmental organizations that had not yet submitted such information. In the same resolution, the Council requested the Secretary-General to include in that report information on the matter of close collaboration of the Commission on the Status of Women and the Commission on Crime Prevention and Criminal Justice with the Centre for Human Rights on the issue of the suppression of contemporary forms of slavery.

38. The Commission on Human Rights, in its resolution 1993/41 of 5 March 1993, on human rights in the administration of justice, invited the Commission on Crime Prevention and Criminal Justice to explore ways and means of cooperating with the human rights programme in the field of the administration of justice, with special emphasis on the effective implementation of norms and standards. In its resolution 1993/49 of 9 March 1993, the Commission on Human Rights expressed its appreciation for the enhanced cooperation between the Centre for Human Rights, and, *inter alia*, the Crime Prevention and Criminal Justice Branch.

39. The Commission on Human Rights, in its resolution 1993/44 of 5 March 1993, reaffirmed the importance of the full and effective implementation of United Nations norms and standards on human rights in the administration of justice. In the same resolution, the Commission on Human Rights endorsed resolution 1992/38 of 28 August 1992 of the Subcommission on Prevention of Discrimination and Protection of Minorities, in which the Subcommission decided to entrust the Special Rapporteur on the Independence of the Judiciary and the Protection of Practising Lawyers with the preparation of a report containing, *inter alia*, an examination of the ways and means of enhancing cooperation and avoiding overlapping and duplication in the work of the Commission on Crime Prevention and Criminal Justice and that of the Subcommission.

40. The Commission on Human Rights, in its resolution 1993/32 of 5 March 1993, on the administration of justice and human rights, urged Governments to pay more attention to the needs of the institutions concerned with the administration of justice by allocating more resources to them. Furthermore, in its resolution 1993/71 of 10 March 1993, the Commission on Human Rights encouraged Governments, United Nations bodies and organs, the specialized agencies, intergovernmental organizations and non-governmental organizations to initiate, coordinate or support programmes designed to train and educate law enforcement officers and government officials on human rights issues connected with their work, and appealed to the international community to support endeavours to that end.

41. On the recommendation of the Commission on Crime Prevention and Criminal Justice, the Economic and Social Council adopted resolution 1993/34. In section II of that resolution, the Council reaffirmed the importance of United Nations standards, norms and guidelines in crime prevention and criminal justice. In section II of that resolution, the Council noted with appreciation the cooperation between the Crime Prevention and Criminal Justice Branch and the Centre for Human Rights and recommended that such cooperation be expanded and intensified.

42. As part of its efforts to cooperate with the Centre for Human Rights, the Crime Prevention and Criminal Justice Branch has provided information on diverse subjects of common interest. Some of this information has been used by the Centre, together with special rapporteurs, in preparing studies. The following issues on human rights related to crime prevention and criminal justice have been the subject of resolutions and decisions of the Economic and Social Council, the Commission on Human Rights and/or the Subcommission on Prevention of Discrimination and Protection of Minorities:

- (a) Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers;*
- (b) Question of human rights and states of emergency;**
- (c) Question of the impunity of perpetrators of violations of human rights;***
- (d) Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;****
- (e) The right to a fair trial;*****
- (f) Application of international standards concerning the human rights of detained juveniles;†
- (g) Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms;††
- (h) Recognition of gross and large-scale violations of human rights as an international crime.†††

43. The Subcommission, in its resolution 1993/39, recommended to the Commission on Human Rights that it create a monitoring mechanism to follow up the question of the independence and impartiality of the judiciary, particularly with regard to judges and lawyers, as well as court officers, and the nature of problems liable to attack that independence and impartiality.

(iii) Advancement of women

44. The Economic and Social Council, in its resolution 1993/26 of 27 July 1993, requested the Commission on Crime Prevention and Criminal Justice to include the issue of violence against women in all its forms in the provisional agenda for its third session. While this issue is to be discussed by the Commission under item 3 of its provisional agenda, dealing with the review of priority themes, it is also

*See Council decision 1993/267 of 28 July 1993, Commission on Human Rights resolution 1993/44 and Subcommission resolution 1993/39 of 25 August 1993.

**See Council decision 1993/265 of 28 July 1993, Commission on Human Rights resolution 1993/42 of 5 March 1993 and Subcommission resolution 1993/28 of 25 August 1993.

***See Council decision 1993/266 of 28 July 1993, Commission on Human Rights resolution 1993/43 of 5 March 1993 and Subcommission resolution 1993/37 of 26 August 1993.

****See Council resolution 1993/46 of 28 July 1993 and Commission on Human Rights resolution 1993/34 of 5 March 1993.

*****See Subcommission resolution 1993/26 of 25 August 1993.

†See Subcommission resolution 1993/27 of 25 August 1993.

††See Subcommission resolution 1993/29 of 25 August 1993.

†††See Subcommission resolution 1993/30 of 25 August 1993.

of great relevance to its discussion of item 6 of the provisional agenda, on United Nations standards and norms in crime prevention and criminal justice.

45. The protection of women from all criminality, more generally, the protection of victims, is within the scope of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. The Declaration includes recommendations on measures to be taken to improve access to justice and fair treatment, restitution, compensation and social assistance for victims of crime. Such measures are of special importance to the protection of women.

46. In June 1993, the Crime Prevention and Criminal Justice Branch, pursuant to General Assembly resolution 45/114 of 14 December 1990, published a resource manual on strategies for confronting domestic violence.⁸ A draft version of the manual had been prepared in collaboration with the Government of Canada and the European Institute for Crime Prevention and Control, affiliated with the United Nations* and had been reviewed at the Expert Group Meeting on Domestic Violence, hosted by the International Centre for Criminal Law Reform and Criminal Justice Policy at Vancouver, Canada, from 22 to 25 March 1992. The manual identifies different strategies that governments, police, social service agencies, health workers, community organizations and women's groups around the world are using to confront the violence that women suffer at home. The Economic and Social Council, in its resolution 1993/26, welcomed the extrabudgetary funds provided by the European Institute for Crime Prevention and Control, affiliated with the United Nations, for the publication of the manual in English and requested the Secretary-General to publish it in the other official languages of the United Nations. The Secretariat is seeking potential donors to provide the necessary funds to translate and publish the manual in those other languages.

47. On the recommendation of the Commission on the Status of Women at its thirty-seventh session, the General Assembly adopted resolution 48/104 of 20 December 1993, on the Declaration on the Elimination of Violence against Women. According to article 4 of the Declaration, States should, inter alia:

(a) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;

(b) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of gender-insensitive laws, enforcement practices or other interventions;

(c) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women.

48. According to article 5 of the Declaration, the organs and specialized agencies of the United Nations system should, within their respective fields of competence, inter alia:

*Formerly called the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations.

(a) Foster international and regional cooperation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women;

(b) Promote meetings and seminars with the aim of creating and raising awareness among all persons in respect of the issue of the elimination of violence against women.

49. An expert group meeting on measures to eradicate violence against women, organized by the Division for the Advancement of Women of the Secretariat, under the auspices of the Centre for Women's Global Leadership, was held at New Brunswick, New Jersey, United States, from 4 to 8 October 1993. The expert group made several recommendations of relevance to the United Nations crime prevention and criminal justice programme. In particular, it recommended that the Commission should consider the following:

(a) Urging States to gather data on a sex-disaggregated basis;

(b) Urging States to record the relationship between the victim and offender in statistics related to violence;

(c) Requesting all United Nations bodies and institutions concerned with crime prevention and criminal justice to do the same;

(d) Urging the United Nations Criminal Justice Information Network to design and integrate an information system providing appropriate data on violence against women;

(e) Requesting the Secretary-General to establish a formal network to coordinate the work of the United Nations interregional, regional and affiliated criminal justice institutes on issues relating to violence against women and the equitable treatment of women within the administration of justice.

50. The expert group also recommended the following:

(a) Gender-based issues and, particularly, gender-based violence against women should be incorporated into the four agenda priority items at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

(b) An interregional adviser on gender-based violence against women should be appointed within the regular programme of technical cooperation of the United Nations;

(c) In conjunction with women's non-governmental organizations, the components of the United Nations crime prevention bodies should conduct research on the effect of the criminal justice system on the individual offender and on the reduction of violence in society generally.

(iv) World Summit for Social Development

51. The World Summit for Social Development, to be held early in 1995, is expected to focus its attention on, among other things, enhancing social integration, an issue of great relevance to the use and application of standards and norms in crime prevention and criminal justice.

52. It is broadly understood that crime should not be interpreted merely as a problem of illegal behaviour and law enforcement, but also as a phenomenon closely linked with economic and social development. According to article 11 of the Declaration on Social Progress and Development,

proclaimed by the General Assembly by its resolution 2542 (XXIV) of 11 December 1969, social progress and development shall aim equally at the attainment of certain main goals, including the provision of social defence measures and the elimination of conditions leading to crime and delinquency, especially juvenile delinquency.

53. In the United Nations crime prevention and criminal justice programme, special attention has always been accorded to the elaboration and application of standards to social issues, such as the important role played by the family in crime prevention; better social integration, particularly of disadvantaged and marginalized groups; and the promotion of programmes to ensure social justice and legal protection, effective social services and adequate education and training for different segments of society.

54. The Beijing Rules (rules 1.1-1.6) and the Riyadh Guidelines (paragraphs 11-19 and 32-39) stress the importance of furthering the well-being of the juvenile and the family and the development of conditions that will ensure for the juvenile a meaningful life and opportunities for socially useful activities in the community.

55. In addition, the Standard Minimum Rules for the Treatment of Prisoners (rules 79-83), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (rules 1-10), the Basic Principles for the Treatment of Prisoners, and the Tokyo Rules (rule 1.5) all emphasize the need to create favourable conditions for the reintegration of offenders into society.

56. The General Assembly, by its resolution 45/107 of 14 December 1990, adopted the recommendations on international cooperation for crime prevention and criminal justice in the context of development. The recommendations, contained in the annex to that resolution, outline comprehensive prevention strategies to cope with crime prevention and criminal justice and call for an intensification of the struggle against crime by promoting the rule of law, with due regard to human rights of individuals and groups. Special emphasis is also placed on reforming criminal law, incorporating prevention policies into national development planning, and promoting international, scientific and technical cooperation in crime prevention and criminal justice.

(v) International Law Commission

57. The Economic and Social Council, in its resolution 1992/22, section IV, requested the Commission on Crime Prevention and Criminal Justice to cooperate closely with the International Law Commission. The possible establishment of an international criminal jurisdiction was considered one area of immediate common interest. In its resolution 1993/34, section V, the Council recommended that the Secretary-General should consider resorting, where appropriate, to the expertise available in the Crime Prevention and Criminal Justice Branch in matters related to the work of the International Law Commission on the preparation of a draft statute for the international criminal court and the draft code of crimes against the peace and security of mankind.

58. The Branch has participated in international conferences on the establishment of an international criminal court, such as the World Conference on the Establishment of an International Criminal Tribunal to Enforce International Criminal Law and Human Rights, held at Siracusa, Italy, from 2 to 5 December 1992 under the auspices of the International Institute of Higher Studies in Criminal Sciences, and the International Meeting of Experts on the Establishment of an International Criminal Court, held at Vancouver, Canada, from 22 to 26 March 1993 under the auspices of the International Centre for Criminal Law Reform and Criminal Justice Policy. Draft statutes for an international criminal court have been developed by the International Law Association and the International Institute of Higher Studies in Criminal Sciences.

59. In its resolution 827 (1993) of 25 May 1993, the Security Council, convinced that in the particular circumstances of the former Yugoslavia the establishment as an ad hoc measure of an international tribunal and the prosecution of persons responsible for serious violations of international humanitarian law would enable that aim to be achieved and would contribute to the restoration and maintenance of peace, decided to establish the International Tribunal and to adopt the Statute of the International Tribunal.

60. The General Assembly, in its resolution 48/31 of 9 December 1993, took note with appreciation of chapter II of the report of the International Law Commission on the work of its forty-fifth session,⁹ which was devoted to the question of a draft statute for an international criminal court. In the same resolution, the Assembly invited States to submit to the Secretary-General by 15 February 1994, as requested by the International Law Commission, written comments on the draft articles proposed by the working group on a draft statute for an international criminal court.

(b) Institutes

61. Cooperation with institutes affiliated or associated with the United Nations and coordination of their activities are crucial to the use and application of United Nations standards and norms, as outlined in the report of the Secretary-General (E/CN.15/1994/10).

(c) Non-governmental organizations

62. Non-governmental organizations have contributed significantly to the promotion, use and application of United Nations standards and norms in crime prevention and criminal justice by holding seminars and meetings, conducting individual research and studies, and publishing reports and manuals on the subject.

63. Joint technical publications are an area in which such cooperation with non-governmental organizations has been developed. For example, the Crime Prevention and Criminal Justice Branch, in collaboration with the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the Asia Crime Prevention Foundation and the International Penal and Penitentiary Foundation, has published the Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules),¹⁰ which provide practical guidelines on the use and application of the Tokyo Rules at the regional level. In addition, with the assistance of the Religious Society of Friends (Quakers), the Branch has published a study on life imprisonment¹¹ that focuses on the treatment of life-sentence prisoners, taking into account the Standard Minimum Rules for the Treatment of Prisoners. In addition, the Branch is preparing, in cooperation with the Centre for Human Rights and the Minnesota Lawyers' International Human Rights Committee, a manual on international standards related to pre-trial detention. The United Nations Educational, Scientific and Cultural Organization (UNESCO) Institute for Education at Hamburg, Germany, in cooperation with the Crime Prevention and Criminal Justice Branch, will publish a manual on basic education in prison in 1994. A meeting to finalize the publication of the manual was held at Hamburg from 14 to 18 January 1994. Further cooperation with the Minnesota Lawyers' International Human Rights Committee is being planned in the area of witness protection.

64. United Nations activities aimed at promoting the use and application of standards and norms benefit greatly from cooperation with and contributions from interested non-governmental organizations. The International League for Human Rights, Amnesty International and the World Organization against Torture (SOS-Torture) continue to draw attention to torture and other forms of mistreatment of prisoners, which violate the Standard Minimum Rules for the Treatment of Prisoners. The International Commission of Jurists, the International Association of Judges and the International Bar Association are

seeking to promote the Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers.

65. On the occasion of the eleventh International Congress on Criminology, held at Budapest from 22 to 27 August 1993, an international committee composed of individuals from Germany, Hungary, Ireland and the Netherlands was set up to explore the establishment of an international association of prosecutors, with a view to promoting international cooperation among prosecutors and the application of the Guidelines on the Role of Prosecutors.

66. Furthermore, the Conference of the International Bar Association, held at Cannes in September 1992, a subcommittee for prosecutors was established. The general objectives of the subcommittee included:

(a) The enhancement of the role of the prosecutor as a minister of justice within the judicial system;

(b) The study of procedures designed to ensure the fair administration of criminal justice, the avoidance of miscarriages of justice and the protection of all civil liberties;

(c) The identification of the ethical standards required of the prosecutor.

In order to ensure coordinated activities in this area, cooperation has been established between the above-mentioned subcommittee and the international committee set up at the eleventh International Congress on Criminology.

67. The Alliance of NGOs on Crime Prevention and Criminal Justice (New York) has conducted surveys on health care in prisons, in consultation with the Crime Prevention and Criminal Justice Branch. The Alliance of NGOs on Crime Prevention and Criminal Justice (Vienna) played a significant role in the elaboration of Economic and Social Council resolution 1993/34, section III, on United Nations standards and norms in crime prevention and criminal justice; it also played an important role in the organization of a training course in reorganization of penal reform in Romania.

68. The International Scientific and Professional Advisory Council acted as host to a meeting of experts on victim protection and conflict resolution, held at Oñate, Spain, from 12 to 16 May 1993, with a view to exploring the ways and means of promoting the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. In addition, the third plenary session of the International Scientific and Professional Advisory Council, held at Courmayeur, Italy, from 28 August to 1 September 1993, resulted in the establishment of a resource committee on human rights in criminal justice. The committee supports activities of the Branch in this area and is compiling a list of training manuals on human rights for use by national police and prison systems.

B. Information-gathering

69. The Branch, in order to commence a process of information-gathering, pursuant to the request of the Council referred to in subparagraph 3 (c) above, developed survey instruments in the form of draft questionnaires on the use and application of the following United Nations standards and norms:

(a) The Standard Minimum Rules for the Treatment of Prisoners;

(b) The Code of Conduct for Law Enforcement Officials, together with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

- (c) The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;
- (d) The Basic Principles on the Independence of the Judiciary.

70. The draft questionnaires will be made available to the Commission so that it may give guidance and make recommendations on further action by the Secretariat. In order to avoid overburdening the government officials to whom the questionnaires will be sent, the number of questions has been limited.

71. Some factors considered in developing the draft questionnaires were:

- (a) The time to be allowed for sending replies to the questionnaire;
- (b) The limited capacity of some Member States to compile their replies;
- (c) Other difficulties some Member States might have in compiling replies;
- (d) The content of the questionnaires.

72. The draft questionnaires have been designed to provide the Commission with precise information. In developing the draft questionnaires, the wording used in the provisions of the United Nations standard or norm in question has been followed wherever possible. After each provision, boxes have been introduced for replies. By marking one or more of the alternatives provided in each box, the degree to which a specific provision has been applied can be indicated. At the end of each section, Member States will be invited to add comments on their specific situation. At the end of each questionnaire, Member States will have an opportunity to express their interest in receiving assistance in, for example, the promulgation of standards, planning, research, administrative training, exchange of experience, and financial aid.

73. The Secretariat has attempted to develop the draft questionnaires in such a way as to reduce to a minimum the time required for Member States to compile their replies to the questionnaires. The proposed method of gathering the information is also intended to reduce the time and resources required to evaluate the replies. At the same time, it would maintain the advantages of an open-ended questionnaire in which the specific structure and situation of the criminal justice system of the Member State concerned could be emphasized. It is envisaged that the data, which will be available in computerized form, will provide the basis for written reports and may also be used to respond to specific questions from the Commission. Experts in the field have been consulted on the draft questionnaires.

74. Any type of information-gathering that uses questionnaires as a basic tool is no better than the replies received. Over the years, the Crime Prevention and Criminal Justice Branch has submitted 17 reports on the use and application of 8 different United Nations standards and norms in the field to the Economic and Social Council, the United Nations congresses on the prevention of crime and the treatment of offenders and the former Committee on Crime Prevention and Control. As mentioned in the report of the Secretary-General on existing United Nations standards and norms, which serve as recommendations to Member States, in the field of crime prevention and criminal justice in the light of and including their use and application (E/CN.15/1993/6, annex III), in the period 1987-1990, notes verbales and questionnaires were sent out to Member States in respect of the following United Nations standards and norms on crime prevention and criminal justice:

- (a) Standard Minimum Rules for the Treatment of Prisoners (A/CONF.144/11);
- (b) Code of Conduct for Law Enforcement Officials (E/AC.57/1988/8 and Add.1/Rev.1);

(c) Safeguards guaranteeing protection of the rights of those facing the death penalty (E/AC.57/1988/9 and Corr.1 and 2);

(d) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1988/3);

(e) Basic Principles on the Independence of the Judiciary (A/CONF.144/19 and Corr.1);

(f) United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (A/CONF.144/4).

75. For the most part, previous reports on the application of United Nations standards and norms in crime prevention and criminal justice relied on replies by Governments to periodic United Nations questionnaires on the subject. Because of their small number, those replies could be relied on only to a limited extent. Between 30 per cent and 45 per cent of Member States replied to the questionnaires on the above-mentioned subjects.

76. In view of the low response rates, the Secretariat had to make great efforts to evaluate incoming replies, reflecting not only the use and application of the United Nations standards and norms but also taking into account differences in the criminal justice systems of Member States and their inherent practical problems. In addition, the reports, once submitted, had only a limited practical impact because the former Committee on Crime Prevention and Control and the congresses did not have the means or the time to evaluate them and follow up on them.

77. In the light of the low rate of response to previous survey instruments, the Commission may wish to explore ways of ensuring an adequate number of replies to the questionnaires and to explore other means by which such information could be gathered. In section II of the present report, the attention of the Commission is drawn to some possible alternatives.

78. In pursuance of Economic and Social Council resolution 1745 (LIV) of 16 May 1973, the Branch has prepared quinquennial surveys on capital punishment. Pursuant to Economic and Social Council resolution 1986/10, section X, of 21 May 1986, the Secretary-General submitted to the Committee on Crime Prevention and Control at its tenth session a report on the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (E/AC.57/1988/9 and Corr.1 and 2). In accordance with Economic and Social Council resolution 1989/64 of 24 May 1989, a report of the Secretary-General (E/1990/38/Rev.1 and Add.1) on capital punishment and a report of the Secretary-General (E/AC.57/1988/9 and Corr.1 and 2) on implementation of the United Nations safeguards guaranteeing protection of the rights of those facing the death penalty were submitted to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August-7 September 1990. In 1995, the Secretary-General will continue reporting on the implementation of the safeguards, as well as the question of capital punishment, pursuant to Council resolution 1989/64, paragraph 6, and decision 1994/206 of 3 February 1994.

II. CONCLUSIONS

79. United Nations standards, norms, guidelines and model treaties in crime prevention and criminal justice represent internationally agreed upon principles of desirable practice on the basis of which Governments can assess their own systems and contribute to the concept of an international rule of law. They are a distillation of expert advice and government recommendations and can serve as a point of departure for developing national policies.

80. The importance of such standards, norms, guidelines and model treaties was underlined recently by the General Assembly in its resolution 48/137, on human rights in the administration of justice. In that resolution the Assembly strongly recommended that the establishment of a comprehensive programme within the system of advisory services and technical assistance be considered in order to help States in the task of building and strengthening adequate national structures that had a direct impact on the overall observance of human rights and the maintenance of the rule of law; such a programme should provide, upon the request of the interested Governments, technical and financial assistance to national projects in reforming penal and correctional establishments, education and training of lawyers, judges and security forces in human rights, and any other sphere of activity relevant to the good functioning of the rule of law.

81. The United Nations standards, norms and guidelines in crime prevention and criminal justice can provide a basis both for domestic legislation and for bilateral and multilateral cooperation against national and transnational forms of crime. For these reasons, the Commission on Crime Prevention and Criminal Justice may wish to call upon Member States to align national rules and practices with those standards, norms and guidelines, wherever possible.

82. A variety of steps could be taken towards further developing the United Nations crime prevention and criminal justice programme in a way that would improve the efficacy of all United Nations standards and norms in crime prevention and criminal justice. These could include the following:

(a) Training programmes:

- (i) Requesting the Secretary-General to expand the current technical assistance programme, including training programmes and fellowships, with a view to strengthening further joint activities, including those with other United Nations entities, institutes and non-governmental organizations;
- (ii) Requesting the Secretary-General to continue the development of manuals and guidelines on United Nations standards and norms for law enforcement officials and criminal justice personnel;
- (iii) Calling on States to strengthen the human and financial resources available to the Branch by contributing to the United Nations Crime Prevention and Criminal Justice Fund in order to enable the Branch to better assist States by conducting seminars, workshops and other training programmes;

(b) Advisory services:

- (i) Strengthening the interregional and regional advisory services of the United Nations crime prevention and criminal justice programme by expanding the number of regional advisers and providing the necessary resources for them to collaborate closely with the Crime Prevention and Criminal Justice Branch;
- (ii) Expanding the provision of technical assistance to Member States, at their request, in order to promote the use and application of United Nations standards and norms in crime prevention and criminal justice;

(c) Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice and other publications:

- (i) Reaffirming the request made to the Secretary-General by the Economic and Social Council, in its resolution 1993/34, section III, to ensure the widest possible dissemination of the texts of the standards contained in the Compendium and to reprint the English version of the Compendium and to publish it in the other five official languages of the United Nations;
 - (ii) Reaffirming the request made to the Secretary-General by the Council, in its resolution 1993/26, to publish Strategies for Confronting Domestic Violence: a Resource Manual, which is currently available in English only, in the other five official languages of the United Nations;
- (d) Cooperation and coordination:
- (i) Requesting the Coordinator of the International Year of the Family to report to the Commission on Crime Prevention and Criminal Justice at its fourth session on activities related to crime prevention and criminal justice undertaken in observance of the Year; and deciding to discuss this issue further at the Ninth Congress;
 - (ii) Requesting the Secretary-General to continue to coordinate the activities of the Crime Prevention and Criminal Justice Branch with those of the Centre for Human Rights so that they may improve their efficacy and avoid overlapping in the implementation of their programmes;
 - (iii) Exploring the possibility of strengthening cooperation between the Commission on Crime Prevention and Criminal Justice and the Commission on the Status of Women and inviting the Fourth World Conference on Women to consider the recommendations of the Ninth Congress, especially recommendations dealing with violence against women;
 - (iv) Inviting the World Summit for Social Development to consider the recommendations of the Ninth Congress, especially recommendations on the prevention of urban crime and juvenile delinquency;
 - (v) Reaffirming the recommendation made to the Secretary-General by the Economic and Social Council, in its resolution 1993/34, section V, to consider resorting, where appropriate, to the expertise available in the Crime Prevention and Criminal Justice Branch in matters related to the work of the International Law Commission on the preparation of a draft statute for the international criminal court and the draft code of crimes against the peace and security of mankind;
 - (vi) Reaffirming the crucial role of non-governmental organizations in contributing to the effective use and application of United Nations standards and norms in crime prevention and criminal justice and requesting the Secretary-General to continue cooperative training courses in order to assist Member States with the use and application of those standards and norms;
- (e) Information-gathering:
- (i) Inviting Member States to reply to the questionnaires on the following United Nations standards and norms in crime prevention and criminal justice, pursuant to Economic and Social Council resolution 1993/34, section III, paragraph 7(c):
 - a. The Standard Minimum Rules for the Treatment of Prisoners;
 - b. The Code of Conduct for Law Enforcement Officials, together with the Basic Principles on the Use of Firearms by Law Enforcement Officials;

- c. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;
- d. The Basic Principles on the Independence of the Judiciary;
- (ii) Requesting the Secretary-General to submit to the Commission at its fourth session a report on the results of the first survey on the use and application of the above-mentioned standards and norms;
- (iii) Considering the establishment of a mechanism, such as a working group or a sub-committee, to follow up the reports by the Secretary-General and to consider how they could best be used;
- (iv) Exploring supplementary means of collecting information, including the appointment of qualified experts to report to the Commission on the use and application of selected standards worldwide, in accordance with paragraph 28 of the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to General Assembly resolution 46/152 of 18 December 1991.

Notes

¹See First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A.

²Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

³Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex.

⁴Eighth United Nations Congress ..., chap. I, sect. B.3, annex.

⁵Ibid., sect. C.26, annex.

⁶United Nations publication, Sales No. E.92.IV.1.

⁷Occasional Papers Series, No. 3, 1992.

⁸Strategies for Confronting Domestic Violence: a Resource Manual (ST/CSDHA/20).

⁹Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10 (A/48/10).

¹⁰ST/CSDHA/22.

¹¹Life Imprisonment (ST/CSDHA/24).